

## Message Text

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ACTION EB-07

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E.O. 11652: N/A

TAGS: EAIR, UK

SUBJ: CIVAIR - SEABOARD AIRLINES

REF: LONDON 10985

1. BRITISH HIGH COURT RULED JULY 22 IN FAVOR OF SEA-BOARD IN ITS CASE AGAINST DEPARTMENT OF TRADE CONCERNING LONDON-PARIS PROBLEM. WE ARE FORWARDING COPIES OF JUDGE DONALDSON'S 17-PAGE JUDGMENT TO THE DEPARTMENT. IMMEDIATE EFFECT OF JUDGE'S RULING IS TO PERMIT SEABOARD TO OPERATE NEW YORK-PARIS-LONDON-NEW YORK, DISCHARGING IN LONDON CARGO AND MAIL BOARDED IN NEW YORK.

2. WE UNDERSTAND THAT UKG HAS ABOUT SIX WEEKS TO DECIDE WHETHER IT WILL APPEAL HIGH COURT'S DECISION. ON JULY 23, WE ASKED KEMMIS, DEPARTMENT OF TRADE, ABOUT GOVERNMENT'S INTENTIONS. HE SAID ATTORNEYS ARE STILL STUDYING JUDGMENT AND NO DECISION YET TAKEN. HE SAID IN HIS VIEW MUCH WILL DEPEND ON HOW UKG APPEAL IN PANAM COMMISSION CASE TURNS OUT. PANAM CASE WILL BE HEARD JULY 28. WE ARE TOLD THAT IN THAT APPEAL, MAIN ISSUE GOVERNMENT WILL WANT DECIDED IS EXTENT TO WHICH BILATERAL AVIATION AGREEMENTS CONTROL EXERCISE OF STATUTORY DIS-CRETIONARY AUTHORITY OF SECRETARY OF STATE FOR TRADE. IN OTHER WORDS, IS HE REQUIRED TO ACT CONSISTENTLY WITH THE TERMS OF AN INTERGOVERNMENTAL AGREEMENT.

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3. JUDGE DONALDSON AVOIDED THIS ISSUE, TO CERTAIN EXTENT

AT LEAST, IN SEABOARD CASE BY INSTEAD RULING ON PROPER CONSTRUCTION OF OPERATING PERMIT "IN LIGHT OF BERMUDA AGREEMENT." SEABOARD ATTORNEY USED ATTACHMENT 5 AND PROVISION ALLOWING OMISSION OF POINTS IN DESTINATION COLUMN WITH PERSUASIVE EFFECT. INTERESTINGLY, GOVERNMENT ATTORNEY, AT THE OUTSET, CONCEDED THAT FLIGHT NUMBERING WAS NOT A RELEVANT CONSIDERATION AND ONCE THIS CONCESSION MADE, GOVERNMENT CASE FELL APART. RICHARDSON

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